# DA

**1NC—Detain Version**

**Plan’s restriction of the President’s authority to detain causes attacks on the homeland.**

**John Yoo 12** Law Professor @ Cal Liebert, Hugh (Editor); McDowell, Gary L. (Editor); Price, Terry L. (Editor). Jepson Studies in Leadership : Executive Power in Theory and Practice. p 224-8.

http://site.ebrary.com/lib/uiowa/Doc?id=10538928&ppg=224

We can see these dynamics at work in Obama’s initial policies on the war on terrorism, issues on which I worked during my service in the Bush administration. **Obama set his own course on controversial issues such as the detention, interrogation, and trial of terrorists, at first pleasing the base of the Democratic Party, but then tacking back toward Bush policies as he became aware,** I believe, **of the security challenges abroad**. **During his first week** as commander in chief, for example, President **Obama ordered the closure of** detention facilities at **Guantánamo** Bay 43 and terminated the CIA’s special authority to question terrorists using tough interrogation methods that critics have claimed amount to torture. 44 He suspended the military commissions that were in the middle of the trials of al-Qaeda leaders for war crimes. 45 His Department of Justice, led by Attorney General Eric Holder, decided it would no longer use the phrase “enemy combatant” to describe terrorists nor describe the struggle with al-Qaeda as a “war.” 46 Obama released several secret Bush legal memos, some of which I worked on, regarding detention and interrogation policy, and went head-to-head on May 21, 2009, with former Vice President Dick Cheney in dueling speeches over whether the Bush administration policies on interrogation had proven effective. 47 While **these actions** certainly pleased the left wing of the Democratic Party, they also **threatened to handicap our intelligence agencies in preventing future terrorist attacks.** In issuing these executive orders, **Obama favored the law enforcement approach to fighting terror**ism that prevailed before September 11, 2001**. He** also **dried up the most valuable sources of intelligence on al-Qaeda that**, according to former CIA Director Michael Hayden, **largely came out of the tough interrogation of high-level operatives.** 48 The question President Obama should have asked immediately after the inaugural parade was: “What will happen after we capture the next Khalid Sheikh Mohammed or Abu Zubaydah?” More **careful review of terrorism policy would have made clear that the civilian law enforcement system cannot prevent terrorist attacks**. **What is needed are the tools to gain vital intelligence,** which is why, under President Bush, the CIA could hold and interrogate high-value al-Qaeda leaders. On the advice of his intelligence advisers, the president could authorize coercive interrogation methods like those used by Israel and Great Britain in their anti-terrorism campaigns. He could even authorize waterboarding, which Bush did three times in the years after 9/11. 49 President Obama’s stay of all military commission trials, and the transfer to the criminal justice system of the only al-Qaeda operative held by the military on U.S. soil, might have led to the shuttering of commissions entirely. 50 Military commission trials, however, have been used in most American wars, and their rules and procedures are designed to protect intelligence sources and methods from revelation in open court. Obama ordered that al-Qaeda leaders be protected from “outrages on personal dignity” and “humiliating and degrading treatment” in accordance with the Geneva Conventions. 51 Obama might even declare terrorists to be equal to prisoners of war under the Geneva Conventions. The Bush administration, by contrast, was well supported by legal and historical precedent in its decision to classify terrorists like pirates: illegal combatants who do not fight on behalf of a nation and refuse to obey the laws of war. 52 The CIA must now conduct interrogations according to the rules of the Army Field Manual, which prohibits coercive techniques, threats and promises, and the good-cop, bad-cop routines used in police stations throughout America. 53 President Bush had already banned torture or physical abuse in 2002 (the Bush administration concluded that waterboarding was neither), 54 but President Obama’s new order amounts to requiring— on penalty of prosecution— that CIA interrogators be polite. 55 Coercive measures are unwisely banned with no exceptions, regardless of the danger confronting the country. **Eliminating the Bush system entirely risks losing timely information from captured al-Qaeda terrorists**. Every prisoner will have the right to a lawyer (which they will surely demand), the right to remain silent, and the right to a speedy trial. 56 The first thing any lawyer will do is tell his client to shut up. The Khalid Sheikh Mohammeds or Abu Zubaydahs of the future will not respond to verbal questioning or trickery— which is precisely why the Bush administration felt compelled to use more coercive measures in the first place. Our **soldiers** and agents **in the field will have to run more risks to secure physical evidence at the point of capture and maintain a chain of custody that will stand up to the standards of a civilian court**. **Relying on the civilian justice system not only robs us of the most effective intelligence tool to avert future attacks, it** also **provides an opportunity for our enemies to obtain intelligence on us**. **If terrorists are now to be treated as ordinary criminals, their defense lawyers will insist that the government produce in open court all U.S. intelligence on their clients along with the methods used** by the CIA and NSA **to get it.** **A defendant’s constitutional right to demand the government’s files often forces prosecutors to offer plea bargains to spies rather than risk disclosure of intelligence secrets.** Zacarias Moussaoui, the only member of the 9/11 cell arrested before the attack, turned his trial into a circus with such demands. He was convicted after four years of pretrial wrangling only because he chose to plead guilty. 57 **Efforts to use the criminal justice system to try al-Qaeda leaders will only lead to more of the same, but with far more valuable intelligence at stake**. It is naïve to say, as Obama did in his inaugural speech, that we can “reject as false the choice between our safety and our ideals.” 58 **That highflying rhetoric means that we must give al-Qaeda**— a hardened enemy committed to our destruction— **the same rights as garden-variety criminals at the cost of losing critical intelligence about real, future threats**. All government policies involve tradeoffs between competing values, and the Obama administration cannot wish them away by claiming they don’t exist. **As Obama has matured in office and learned more about the nation’s security environment,** however, **he has adopted policies that suggest more continuity with the past**. As of mid-2010, Obama had decided against ending the NSA’s electronic surveillance program, which allows the warrantless interception of suspected terrorist communications entering or leaving the country. 59 **The new administration** not only kept in place, but even **expanded, the use of un~~man~~ned aircraft to kill** suspected **al-Qaeda leaders** in civilian areas— a far greater deprivation of civil liberties than detention, interrogation, and trial by the military. 60 In May 2009, **Obama reversed his decision to suspend military commissions,** and even though he has proposed the transfer of enemy combatants from Guantánamo Bay to the United States, he also conceded that many will not be tried in civilian courts but will instead be detained as prisoners of war. 61 In 2011, the administration finally accepted that al-Qaeda leaders would not be tried in New York City, Guantánamo Bay would remain open, and military commissions would restart— thanks in part to congressional funding bans on relocating any terrorists to the United States. None of these policies would be legal unless the United States were at war. Continuing a war that he inherited, Obama bears similarity not to FDR or even to Lincoln, to whom the president compares himself, but to Eisenhower. Ike was another president whose personal popularity outstripped the public support for his policies. The Eisenhower administration continued the basic strategy developed by his immediate predecessor, Harry Truman, to address the dire security challenge posed by the Cold War. Eisenhower initially campaigned on the grounds that the strategy of containment resigned millions to communist dictatorship, and his future secretary of state, John Foster Dulles, promised “rollback” of Soviet control of Eastern Europe. 62 Once in office, however, Eisenhower retained the fundamental strategy of containment, though with a lower defense budget and without triggering an all-out war. As John Lewis Gaddis has shown, he changed the means from symmetric to asymmetric force, but he remained true to Truman’s fundamental choice of containing the Soviet Union around its periphery. 63 Similarly, President Obama has come to recognize the wisdom of the goals of the Bush administration’s terrorism policies. Further, it should be clear that these policies are rooted in a broad view of presidential power. Obama has continued the American occupation of Iraq and even increased deployment to Afghanistan, based on the view of his national security team— not of Congress— that the battle against terrorism must be won there. 64 Continuing the NSA’s warrantless wiretapping power is primarily the result of the president’s decision to carry out signals intelligence against an enemy. Extensive use of Predator drones is a tactic carried out by the military pursuant to the president’s commander in chief authority. Suspending military commissions at Guantánamo, which had received congressional authorization in 2006, could only be done pursuant to the president’s Article II powers under the Constitution. 65 Even ordering the CIA to follow military rules in interrogating enemy combatants depends wholly on the president’s authority to command the military and determine operational tactics and strategy. Congress itself refused to place the CIA under the rules of the Army Field Manual on interrogation**. In making and implementing these terrorism policies, Obama has done nothing less than exercise many of the executive’s broader powers in times of emergency or war**. Counterterrorism policy also shows the effectiveness of Congress’s powers. A signal element of Obama’s plan was closing Guantánamo Bay and transferring the remaining detainees to the U.S. prison system. Congress responded by banning the use of any funds to allow any Guantánamo Bay detainee to enter the United States. 66 Obama’s buildup in Afghanistan would be impossible without congressional funding for the new deployments, and his policies on targeted killings with Predator drones or NSA surveillance could not continue without Congress’s financial support. **Any effort to recharacterize the status of enemy combatants or to try them in civilian courts would be tested** in the federal courts and could reach the U.S. Supreme Court. **Both branches have the ability to impede, if not totally obstruct,** President **Obama’s policies against the leading external security threat of our** day. Obama may have made his decisions on terrorism too swiftly after his inauguration. He may have opened the door to further terrorist acts on U.S. soil by shattering some of the nation’s most critical defenses. Or he may be right in reversing some of the Bush-era measures, if current classified threat assessments report that the chances of a terrorist attack have sharply declined. What remains important is that Obama, like Bush, has relied on his constitutional authority to make policy on everything from the number of troops in Afghanistan, to warrantless wiretapping, to use of Predator drones**. If Obama wishes to guide the nation successfully through its period of economic crash and foreign threat, he must draw on the mainspring of presidential power as deeply as did his greatest predecessors**. **The early part of his presidency shows signs that he has learned this lesson reluctantly**.

**Extinction.**

Yonah **Alexander 10**, Director of the International Center for Terrorism Studies at the Potomac Institute for Policy Sciences, “Maghreb & Sahel Terrorism: Addressing the Rising Threat from al-Qaeda & other Terrorists in North & West/Central Africa,” January, <http://www.potomacinstitute.org/attachments/524_Maghreb%20Terrorism%20report.pdf>

Current and **future perpetrators include** the following: “freelance” and **sub-state terrorist groups**; individual terrorists; mentally deranged “crusaders” or “martyrs”; single-issue political extremists; ideological-based groups; ethnic, racial, and religious movements; nationalist and separatist actors; criminal and political mercenaries; and international networks, **particularly al-Qaeda and its affiliates in** Africa, Asia, and **the Middle East**. Terrorists’ impulses cover a broad range of motivations. These consist of political discontent— ideological (anarchism, ambitions, radicalism) and nationalistic (resistance, separatism, irredentism)— economic discontent (low living standards, lack of opportunity, unfulfilled expectations, loss or squandered resources); and cultural discontent (class constraints, ethnic discrimination, religious intolerance, technological and environmental irritants). There is also a long record of governments that provide terror groups both direct and indirect support (e.g., financing, training, intelligence, operations, and weaponry). A rogue nation utilizes terrorist proxies to further its own country’s interests. As formal, open, and direct malevolent actions undertaken by a government would call immediate attention to state sponsors, using terrorist groups to carry out operations such as assassinations and bombings enables the government sponsor to deny any claim. The roles played by Iran, Sudan, Cuba, previously Libya, and North Korea in such events come to mind. Currently, Iran and North Korea are of particular concern to the international community because of their nuclear ambitions. In addition, the latest focus of concern is so-called “failed states” wherein there are no effective government institutions to intercede and prevent the spread of terrorist facilities within a country. These lawless zones are increasingly becoming target-rich opportunities for the consolidation of terrorist assets and ventures. Current Trends Modern terrorism is characterized by an ideological and theological fanaticism, an education in hatred toward one’s enemy, which has coupled with rapid technological advancements in communications (e.g., the internet), transportation (e.g., modern international air travel), as well as conventional and unconventional weaponry to create a truly lethal threat. Indeed, this threat has become much more decentralized as it now emanates not only from established terrorist organizations but also from freelance individuals with the motives, means, and opportunity to visit harm upon civil society. Because of these developments, **contemporary terrorism presents a multitude of threats to all nations, large and small**. One measurement of evaluating the terrorist threat is to calculate the enormous cost to all societies in terms of the number of incidents, the human toll, and the economic damage. Indeed, since the 1960s, **modern society has suffered dearly from the global disease of terrorism, a reality that grows in scope and brutality with every passing year**. For example, in the 1970s, a total of 300 domestic and international terrorist attacks were recorded worldwide. Today, almost 40 years later, the count totals more than 80,000 incidents. Clearly, no community, country, or region is immune from the impact of terrorism. In the 9/11 attacks in New York City, citizens from 78 countries were killed. That year alone, 3,537 people died. During the period between 2002-2008, more than 113,000 persons perished and hundreds of thousands were wounded in terrorist attacks throughout the world. The economic, political, psychological, and strategic costs must also be considered in this assessment. Criminal-Terrorist Nexus Globalization and the information revolution have enabled criminals and organized crime to do business and engage in a broad range of criminal activities. For instance, “white collar” crimes are expanding. These crimes target sectors such as antitrust law, securities, commodities futures, environmental activities, maritime business, gaming, the internet, intellectual property, and tax customs. Trafficking in human beings (e.g., buying and selling of women and children, usually for sexual exploitation) represents another “new,” substantive, and transnational offense. In addition, serious organized criminal threats facing the international community (e.g., the Maghreb and Sahel regions) consist of current and emerging challenges to law enforcement, including drug trafficking (particularly in heroin, both powder and crack cocaine, and ecstasy), organized immigration crime, fraud (particularly in revenue fraud), money laundering, counterfeiting, illicit weapons possession and sales, and high-tech criminal activity (e.g., the Abdul Qadeer Khan nuclear smuggling network). Legitimate companies support terrorists and criminals—directly and unwittingly—to initiate their illicit activities. Numerous identifiable forums of these relationships include the following interfaces: funding and money laundering; employment and accessibility of personnel and equipment; generic tools (e.g., trucks); instruments of terror (e.g., dynamite or explosives); information about local landmarks and prospective targets (e.g., highlighting vulnerabilities and access to targets); communications, resources, and contacts; work permits (particularly for immigration-related criminal activity); and sponsorship (e.g., employment and resources). Terrorist groups and criminals also use front companies, which combine both legitimate and illicit sources of revenue, and shell companies, opaque firms used to hide a legitimate owner’s interests, to finance unlawful operations. In addition to the foregoing, terrorists and criminals feed off each other in a wide variety of criminal activities, including counterfeiting currency, credit card theft, misappropriating and using credit card information, forging documents, identity theft, money laundering, drug trafficking, corruption, and commercial espionage. Terrorist groups use a variety of means—from the simple to the complex—to secure funding for their activities. The initial sources of terrorist funding include both legal (e.g., personal savings and legitimate business revenue) and illicit avenues (e.g., criminal activity such as drug trafficking, kidnapping, and financial fraud). Once the funds are raised, they are distributed to various factions of terrorist groups through a variety of means. These include the use of traditional and alternative financial services entities (e.g., banks and hawalas—informal money-transfers systems firmly established in Asia and the Middle East), nonprofit organizations trading in commodities (e.g., “conflict diamonds” and gold), bogus financial instruments, smuggling of currency and products, wire transfers, drug trafficking, extortion, money laundering, securities fraud, and other scams. Future Outlook: Super Terrorism What is of particular concern is that **unconventional weapons—biological, chemical, radiological, and nuclear—are slowly emerging upon the contemporary terrorist scene**. That is, **as technological developments offer new capabilities for terrorist groups, the modus operandi of these groups** **may subsequently alter most drastically**. Reportedly, at least a dozen terrorist groups, in addition to **al-Qaeda’s network, have shown an interest in acquiring or actively attempting to obtain nuclear weapons, which is a significant threat throughout the world**. Thus, while the probability of nuclear terrorism remains low in comparison to the use of other weapons of mass destruction, the **consequences of “super” terrorism could be enormous. If a nuclear bomb is stolen (or built** by a terrorist group with reasonable resources and talent**), it could result in massive devastation**. For example, an explosion of about one kiloton (one-twentieth the power of the Hiroshima attack) in any major city has the potential to cause more than 100,000 fatalities and result in damage totaling billions of dollars. Another dangerous emerging trend of contemporary international life is the growing threat of cyberterrorism. The expanding concern is that not only criminal hackers but also terrorists will intensify the utilization of this form of electronic warfare as an equalizer weapon. It is evident that the threat of “non-explosive” terrorist assaults is growing with every passing day. Three contributing factors account for the reality. First, the “globalization” of the internet makes government and industry efforts to control cyber attacks much more challenging than ever before. Second, there are now tens of thousands of hacker-oriented sites on the internet resulting in “democratization” of the tools used for disruption and destruction. With their systematic cyber “cookbooks,” the exploitation of Trojan horses, logic bombs, and other electric modus operandi alternatives are becoming a permanent fixture of international life. Third, **terrorist organizations have broken away from their place within the formerly bipolar world and have become multidirectional**, causing further complications to our technologically vulnerable societies. **These new developments have enhanced the threats and capabilities of terrorist groups** to the degree in which **they could forever alter our planet’s existence**.

# ATS DA

**1NC—Alien Torts DA**

**Court limiting ATCA now.**

Daniel **Fisher 9/5**/13, Forbes Staff, http://www.forbes.com/sites/danielfisher/2013/09/06/affirmative-action-labor-law-international-suits-lead-supreme-courts-business-docket/3/

**The Ninth Circuit allowed** 22 **Argentinians** who accused the Mercedes-Benz owner of collaborating in that country’s “Dirty War” from 1975-77 **to sue in California under the Alien Tort Statute,** citing the carmaker’s extensive sales in the state. **The decision is contradicted by the Supreme Court’s Goodyear** v. Brown, however, **handed down just a month later**. **That decision rejected a** North Carolina **court’s “general jurisdiction” to hear a lawsuit** by the parents of two North Carolina teens who were killed when a bus equipped with Goodyear tires made in Turkey crashed in France. **The Supreme Court also gutted most ATS cases with this year’s** decision in **Kiobel** vs. Shell. The Obama administration supports Daimler, saying granting jurisdiction to a U.S. court simply because a company sells products here would hurt international trade. Sounding almost like they were channeling Justice Oliver Wendell Holmes, lawyers in the Solicitor General’s Office said the Ninth’s ruling “is divorced from the background principles of law that fairly set corporations’ expectations about their responsibilities for their corporate affiliates.” **Given that SCOTUS has shut the door on most ATS cases as well as lawsuits against foreign companies for torts that occurred overseas, this one’s just another opportunity for the high court to nullify a Ninth Circuit decision**. My call: The Argentinians lose.

**CIL is the crucial internal link to use ATS**

**Bradley ‘98** (Curtis, law prof at U of Colorado School of Law, 26 Denv. J. Int'l L. & Pol'y 807, lexis)

In a recent article, Professor Jack Goldsmith and I provided a cri [\*809]  tique of the proposition that **c**ustomary **i**nternational **l**aw has the status of federal common law, a proposition that we called the "modern position." [10](http://web.lexis-nexis.com/universe/document?_m=29a685a56a2c714b741a79706adaa73d&_docnum=1&wchp=dGLbVzb-zSkVb&_md5=490418fa5845913971c3df6b9197654b" \l "n10" \t "_self) The modern position has become widely accepted only in the last twenty years, and to date it has been invoked primarily in international human rights litigation. Among other things, it has been invoked to support the constitutionality of the Alien Tort Statute, which purports to give the federal district courts jurisdiction over "any civil action by an alien for a tort only, committed in violation of the law of nations or a treaty of the United States." [11](http://web.lexis-nexis.com/universe/document?_m=29a685a56a2c714b741a79706adaa73d&_docnum=1&wchp=dGLbVzb-zSkVb&_md5=490418fa5845913971c3df6b9197654b" \l "n11" \t "_self) Many suits brought under the Alien Tort Statute are between aliens and concern alleged violations of **c**ustomary **i**nternational **l**aw. Because Article III diversity jurisdiction does not extend to suits between aliens, [12](http://web.lexis-nexis.com/universe/document?_m=29a685a56a2c714b741a79706adaa73d&_docnum=1&wchp=dGLbVzb-zSkVb&_md5=490418fa5845913971c3df6b9197654b" \l "n12" \t "_self) it may be that federal courts can constitutionally hear such cases **only if c**ustomary **i**nternational **l**aw **has the status of federal law**. [13](http://web.lexis-nexis.com/universe/document?_m=29a685a56a2c714b741a79706adaa73d&_docnum=1&wchp=dGLbVzb-zSkVb&_md5=490418fa5845913971c3df6b9197654b" \l "n13" \t "_self)

**Future ATS statutes will jack US-Sino relations.**

**Presma, 05** (Duke Law School, Oct 21, http://www.dukenews.duke.edu/2005/10/bradley.html)

Human rights lawsuits have substantive foreign policy implications, argues Bradley, and U.S. foreign relations **should not be left to the courts.** “The problem with these lawsuits is that the decisions about which countries should be ‘targeted,’ the issues litigated, and the appropriate remedies are all being made by private plaintiffs, their lawyers, and judges, who lack the information, expertise, and accountability needed to craft U.S. foreign policy. Congress and the president take into account many other considerations—cooperative arrangements, trade-offs, economic issues—as well as other tools that might be used to encourage human rights reform. It’s not enough to just think about what is in the interest of a sympathetic plaintiff.” “If litigants can invoke evolving international law as a basis for having the courts scrutinize the way in which Congress and the executive branch manage a war, there is an obvious danger of undermining efforts to protect the country.” Curtis Bradley “China is an obvious example where the United States has often had to balance its interest in promoting human rights with assessments of what’s likely to work, and with other interests such as trade and security,” Bradley continues. “Congress and the president don’t always make the right decisions, **but they are in a better position than the courts to do so.”**

**Causes nuclear war & complicates solvency for all issues.**

**Campbell ‘8** (Kurt, CEO of the Center for a New American Security, “U.S.-China Relations,” Statement before the Senate Foreign Relations Committee, May 15, 2008, CQ Congressional Testimony, lexis)

Yet Asia is not a theater of peace: between 15 and 50 people die every day from causes tied to conflict, and suspicions rooted in rivalry and nationalism run deep. The continent exhibits every traditional and non-traditional challenge of our age: a cauldron of religious and ethnic tension; a source of terror and extremism; the driver of our insatiable appetite for energy; the place where the most people will suffer the adverse effects of global climate change; the primary source of nuclear proliferation**; and the most likely arena for nuclear conflict.** Importantly, resolution and management of these challenges will prove increasingly difficult - if not impossible - without strong U.S.-Chinese cooperation.

# RUDs DA

**1NC—RUD’s DA**

**The U.S. deploys RUDs to get political support for human rights treaties – they’re the basis for non-enforceability**

**Bradley and Goldsmith 2k** (Curtis & Jack, Professor, University of Virginia School of Law, Professor, University of Chicago Law School. University of Pennsylvania Law Review, December, 2000, 149 U. Pa. L. Rev. 399)

For many years, these **challenges led U.S. treatymakers to decline to ratify any** of the major post-World War II **human rights treaties**. Beginning in the 1970s, **the treatymakers crafted a way to commit the** [\*401] **U**nited **S**tates **to** human rights **treaties** in the international arena **while accommodating domestic concerns. They achieved these dual aims by ratifying the treaties with a set of conditions. These conditions take the form of reservations, understandings, and declarations - collectively, "RUDs"** - to U.S. ratification. The RUDs address each of the challenges outlined above. With regard to the problem of substance, U.S. treatymakers decline to commit the United States to certain substantive provisions in the treaties. With regard to the problems of scope and structure, **the treatymakers declare that the treaties are not self-executing and thus not enforceable in U.S. courts until implemented by congressional legislation**. Treatymakers also express an understanding that some provisions of the treaties may be implemented by state and local governments rather than by the federal government.

**By creating a right of action through the Courts, the plan makes the ICCPR self-executing.**

**Goldman 5** (Jeffrey C., Executive Editor, Duke Law Journal, “Of Treaties And Torture: How The Supreme Court Can Restrain The Executive,” Duke Law Journal December, 2005 55 Duke L.J. 609)

Applying the distinction between treaties vesting personal and permanent rights (human rights treaties) and promissory rights (contractual agreements) to the Goldwater holding, a commercial treaty (like that in Goldwater) might confer derivative individual rights, but a human rights treaty clearly implicates rights "permanent in character." 94 Whereas nations might contract for certain privileges in a commercial treaty, such that the parties merit the benefits of their bargains, to speak of treaties as creating bargained-for privileges of human beings seems offensive.95 Unfortunately, in modern times, **courts have generally relied on** Chief Justice **Marshall's dichotomy rather than the substance of treaties to determine whether treaties create individual rights**. Sadly for both human rights activists and potential torture victims, **Marshall's dichotomy quite often has been applied to human rights treaties.** For example, a district court held that the United Nations Charter was non-self-executing and therefore did "not vest any of the plaintiffs with individual legal rights."96 Similarly, **the** International Covenant on Civil and Political Rights (**ICCPR**)97 **has been found to be non-self-executing." Specifically because of their non-self-executing nature,** **neither** **the ICCPR** **nor the Convention Against Torture** **were deemed to have created "a private right of action under which the plaintiff[s could] successfully state a claim**.""

**Non-self-executing RUDs are key to averting a massive backlash, causing a net decline in participation in other HR treaties, turning the case**

**Johnson 1** (Notes Editor, Cardozo Law Review, November 2001, 23 Cardozo L. Rev. 347)

See Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Dec. 10, 1984, S. Treaty Doc. No. 100-20 (1988), 1465 U.N.T.S. 85; International Convention on the Elimination of All Forms of Racial Discrimination, Dec. 21, 1965, S. Exec. Doc. C, 95-2 (1978), 660 U.N.T.S. 195; International Covenant on Civil and Political Rights, Dec. 16, 1966, S. Exec. Doc. E, 95-2 (1978), 999 U.N.T.S. 171; International Covenant on Economic, Social and Cultural Rights, Dec. 16, 1966, S. Exec. Doc. D, 95-2 (1978), 993 U.N.T.S. 3; see also de la Vega, supra note 32, at 452 ("**The** United States Senate **attached an unprecedented number of reservations**, understandings, declarations, and provisos **to the ratification of the ICCPR** and CERD."). **One scholar explains the competing interests that influence attachment of RUDs to non-self-executing treaties as follows**: The U.S. strategy regarding treaty reservations can best be understood as an effort to reconcile two conflicting policy objectives: (1) ensuring that the United States would be able to comply with its treaty obligations; and (2) preventing human rights treaties from altering domestic law... . Although Senator **Bricker**'s effort to amend the Constitution failed, he **succeeded in creating a political environment in which the Senate was hostile towards U.S. ratification of human rights treaties and suspicious of any attempt to use the treaty power to effect domestic social reforms**... . **Thus**, from the Executive Branch's perspective, **one key purpose of the NSE [**non-self-executing] **declarations has been to forestall opposition to treaty ratification from the "Bricker wing" of the U.S. Senate by reassuring them that human rights treaties would not affect domestic law**. David Sloss, The Domestication of International Human Rights: Non-Self-Executing Declarations and Human Rights Treaties, 24 Yale J. Int'l L. 129, 172-75 (1999) (footnotes omitted).

# Judicial Cap DA

**Supreme Court will hear EPA vs. EME now and rule against the EPA.**

Bill **Blum 9/5**/13, Former judge and death penalty defense attorney, http://www.truthdig.com/report/item/supreme\_court\_preview\_a\_storm\_is\_on\_the\_horizon\_20130905/?ln

Environmental Protection (Environmental Protection Agency v. EME Homer City Generation) At the request of the Obama administration, the American Lung Association and environmental groups, the court has agreed to take up a federal appellate ruling that had invalidated the Environmental Protection Agency’s Cross-State Air Pollution rule, which sought to enforce the Clean Air Act by setting much-needed limits on nitrogen oxides and sulfur dioxide emissions from coal-fired power plants in 28 eastern states. **Although some observers see the court’s decision to hear the EME case as a sign of support for the EPA, the Roberts court has a dismal record on environmental protection, aligning itself time and again on the side of corporate interests and polluters**. In 2008, in Exxon v. Baker, the court voted 5-3 to reduce the punitive damages awarded to the victims of the Valdez oil spill from $2.5 billion to $500 million, a mere pittance of the oil giant’s annual profits, leaving more than 30,000 people whose livelihoods and community were destroyed by the disaster with a sum completely inadequate to make up for their losses. Last term, **the court continued its beneficence toward big business**, ruling unanimously that farmers could not use Monsanto’s patented genetically altered soybeans to create new seeds without paying the company a hefty fee. **Expect more of the same going forward, this time on behalf of coal companies**.

**Ruling on war powers authority reduces judicial capital.**

Robert J. **Pushaw 4**, Jr. Professor, Pepperdine University School of Law., http://law.missouri.edu/lawreview/files/2012/11/Pushaw.pdf

Civil **libertarians have urged the Court to exercise the same sort of judicial review over war powers as it does in purely domestic cases**—i.e., **independently interpreting** and applying the law of **the Constitution, despite the contrary view of the political branches and regardless of the political repercussions**.54 This proposed solution ignores the institutional differences, embedded in the Constitution, that have always led federal judges to review warmaking under special standards. Most obviously, the President can act with a speed, decisiveness, and access to information (often highly confidential) that cannot be matched by Congress, which must garner a majority of hundreds of legislators representing multiple interests.55 Moreover, the judiciary by design acts far more slowly than either political branch. A court must wait for parties to initiate a suit, oversee the litigation process, and render a deliberative judgment that applies the law to the pertinent facts.56 Hence, by the time federal judges (particularly those on the Supreme Court) decide a case, the action taken by the executive is several years old. Sometimes, this delay is long enough that the crisis has passed and the Court’s detached perspective has been restored.57 At other times, however, the war rages, the President’s action is set in stone, and he will ignore any judicial orders that he conform his conduct to constitutional norms.58 **In** such **critical situations,** **issuing a judgment simply weakens the Court as an institution**, as Chief Justice Taney learned the hard way.59

Footnote Continues

59. See supra notes 40-42 (discussing Lincoln’s successful refusal to obey Taney’s command to release a military prisoner). Professor Wells acknowledges that **judges sometimes might choose not to exercise meaningful judicial review, especially for political reasons such as preserving their institutional capital**. Wells, supra note 2, at 941-42

**Judicial capital is finite – plan spills-over.**

**Grosskopf & Mondak, ’98** (Poli Sci Profs -- Pitt & FSU, Political Research Quarterly, Sept, Vol. 51, No. 3)

The existence of a strong link between basic values and diffuse support does not necessarily preclude a role for specific decisions, particularly when we seek to understand how support comes to change over time (e.g., Caldeira and Gibson 1992: 658-6 1). We believe that any claim that the Supreme Court is fully immune to backlash against controversial decisions **can be rejected on a prima facie level**. First, consider the extreme case. Were the Supreme Court to make its occasional blockbusters—Brown v. Board of Education, Roe v. Wade, Texas v. Johnson, etc. —the norm by routinely ruling on the thorniest social questions, we see it as implausible that such actions would bring no cumulative impact on how people view the Court. Second, the Supreme Court’s typical mode of operation suggests that justices themselves view institutional support **as an expendable political capital** (Choper 1980). That is, the **Court recognizes its own political limitations**, and thus justices **pick their spots carefully** when approaching potentially controversial cases. From this perspective, the apparent dominance of democratic values as a determinant of institutional support (e.g., Caldeira and Gibson 1992) means not that the Court is insulated from backlash, but that strategic justices **tread cautiously** so as to keep backlash to a minimum. Consequently, how and where we examine whether public response to Supreme Court decisions affects institutional support may shape what answer we find.

**Transport rule causes energy price shocks – studies conclusively prove.**

Matt **Cover 11**, June 10, http://cnsnews.com/news/article/economic-study-shows-epa-regulations-increase-prices-kill-jobs

**A study** of two proposed EPA regulations seeking to curb power plant emissions **shows that** the **regulations will raise electricity prices and cause a four-to-one job loss ration**. The study, conducted by economic research firm National Economic Research Associates (NERA) and commissioned by the American Coalition for Clean Coal Electricity (ACCCE), studied the effects of two proposed EPA regulations – the Clean Air Transport rule that would further curb sulfur and nitrogen emissions and the Maximum Achievable Control Technology (MACT) standard that aims to force power plants to install new emissions-control technology. The study found that **if EPA were to** impose **these** new **regulations, electricity prices would rise by** a nationwide average of **12 percent** by 2016 – **and reduce employment by 1.4 million** by 2020, killing four jobs for every one job created. The study found that electricity prices would rise from an average of $87 per MWh [megawatt-hour] to $92 in 2035. In some states, electricity prices would rise by more than 20 percent as the regulations took a heavier toll on these industrial-based states that have already seen high unemployment and poor job situations during the current recession. States such as Michigan, Illinois, and Kentucky would all see electricity prices rise by more than 20 percent in 2016 alone, followed by continued price increases as the regulations are fully phased in. **The Clean Air Transport rules** are designed to cut down on air pollution that travels over state boundaries, typically causing acid rain and smog. The new proposed rules **tighten the existing system in order to meet tougher ozone stand**ards. The MACT standard would require coal and oil-fired power plants to install scrubbing technology that reduces mercury and other emissions. MACT standards already apply to other industries such as trash incinerators and cement manufacturers, but not power plants. The NERA study finds that **the regulations would increase power plant retirements, meaning that power companies would shut down older** coal and oil-fired **plants rather than update them** to comply with the regulations. These retirements would have two effects, the study found. First, **coal**-fired electricity **generation would decline** by 13 percent by 2016, **and demand** for coal in the electricity sector **would decline** by 10 percent. Second, natural gas-generated electricity would increase by 26 percent by 2016, and **natural gas prices would increase** by 17 percent. This increase in both natural gas demand and natural gas prices is partly to blame for the rise in electricity prices, the study finds, along with increased costs of operating the remaining coal and oil-fired plants, due to regulation. The study examines the impact on natural gas demand as a way to show how the regulations affect the market, essentially giving natural gas companies a new advantage over the typically cheaper coal and oil-fired plants, because the government was imposing new regulatory costs on the oil and coal-fired plants. The study also found that while the regulations would create jobs in industries that produce the technology required to comply with the regulations and in other power-generating sectors that will benefit from these regulations, it will destroy four times as many jobs as it creates. The total job losses caused by these regulations are 1.4 million, the net of 450,000 jobs created and 1.8 million destroyed from 2013 to 2020.

**Low prices key to competitiveness.**

**Schoenberger 12** (Robert, Plain Dealer, 5/13, "Shale gas boom could bring manufacturing jobs back to U.S., economists say," http://www.cleveland.com/shalegas/index.ssf/2012/05/shale\_gas\_boom\_could\_bring\_man.html)

"**By 2025, the manufacturing sector alone could save $11.5 billion in energy costs**," Robert McCutcheon, an economist with consulting group PwC, said at a manufacturing summit hosted by the Federal Reserve Bank of Cleveland. McCutcheon's company, formerly called PriceWaterhouseCoopers, released a study late last year predicting that **as many as 1 million new U.S. manufacturing jobs could come from lower-cost energy**.¶ "**If we save $11.5 billion, that's investment capital that could be redirected elsewhere**," McCutcheon added.¶ Cleveland Fed President and Chief Executive Sandra Pianalto said **manufacturing businesses have been leading the economic recovery in the United States for the past two years**, but she added that job growth hasn't been as strong as profit and sales growth. **To add jobs, the sector needs to attract new manufacturers and bring production back to the U**nited **S**tates from other countries.¶ **That's where** shale gas and **cheap energy could come in**.¶ Pianalto said one steel producer told her recently that energy costs in North America are one-third the cost of European steel plants [reporter's note: an earlier version of this story said U.S. costs were one-tenth of Europe's. Pianalto's office said the Cleveland Fed chief went over her notes and found that one-third was the more accurate figure]. Those costs, coupled with weak demand, has ArcelorMittal expanding in Ohio while it cuts production in Europe. Several other steel plants in the region have also increased production to sell pipeline tubes and other parts to oil and gas companies.¶ Marianne Kah, chief economist for energy company ConocoPhillips, called the ongoing shale boom the "most significant change in the energy industry since the 1940s."¶ Kah said over the past five years, energy companies have learned that most of their early predictions on shale gas were wrong. The companies knew that there were huge reserves of oil and gas trapped within hard rocks that needed to be hydraulically fractured to release that energy, but they vastly overestimated the costs of doing that.¶ Production in Texas and Pennsylvania has produced far more gas, far more cheaply than the industry expected, and gas prices are now near historic lows. Low gas costs have drawn huge interest from chemical companies that convert natural gas into plastics and other materials. In March, Shell Oil said it would build a multi-billion petrochemical refinery near Pittsburgh. Several other chemical plants have announced shale-related expansions.¶ "And these are the very early days. We're likely to learn a lot more about how to optimize this process" and lower production costs in the future, she added.¶ From a competitive standpoint, she said shale is already making the United States a more attractive place to do business. Natural gas prices are lower here than in China, Germany of Great Britain.¶ William **Strauss, senior economist for the Federal Reserve** Bank of Chicago, **said the** boom has meant **U.S. electricity prices are the lowest of any industrial nation in the world**. **Those low energy prices could help the country lure back work sent to Asia** over the years where low-cost labor has been the draw. Strauss said labor is still cheaper overseas, but the total production costs can be higher after figuring in energy and the cost to ship goods across the Pacific Ocean.

**Competitiveness prevents great power war.**

**Baru 9** Sanjaya is a Professor at the Lee Kuan Yew School in Singapore Geopolitical Implications of the Current Global Financial Crisis, Strategic Analysis, Volume 33, Issue 2 March 2009 , pages 163 – 168

Hence, economic policies and performance do have **strategic consequences.**2 In the modern era, the idea that strong economic performance is the **foundation of power** was argued most persuasively by historian Paul Kennedy. 'Victory (in war)', Kennedy claimed, 'has repeatedly gone to the side with more flourishing productive base'.3 Drawing attention to the interrelationships between economic **wealth, technological innovation, and the ability of states to** efficiently **mobilize economic and technological resources for power projection and national defence**, Kennedy argued that nations that were able to better combine military and economic strength scored over others. 'The fact remains', Kennedy argued, 'that all of the major shifts in the world's military-power balance have followed alterations in the productive balances; and further, that the rising and falling of the various empires and states in the international system has been confirmed by the outcomes of the **major Great Power wars**, where victory has always gone to the side with the greatest material resources'.4 In Kennedy's view, the geopolitical consequences of an economic crisis, or even decline, would be transmitted through a nation's inability to find adequate financial resources to simultaneously sustain economic growth and **military power**.

**Nuclear war.**

**Gholz, Press, & Sapolsky ‘97** (PhD candidates – Dept. Poli. Sci. @ MIT, Prof. Public Policy and Organization @ MIT, International Security, Vol. 21, No. 4)

The larger long-term cost of selective engagement is the risk of involvement in faraway great power wars. Great power conflicts will continue to be a rare occurrence, but when they happen, the United States is much better off staying as far away from the combatants as possible. World War II resulted in the deaths of 400,000 Americans, many times that number wounded, and nearly 40 percent of GDP devoted to defense (compared to 4 percent today). **A new great power conflict, with the possibility of nuclear use, might exact even higher costs** from the participants. World War II was fought to prevent the consolidation of Europe and Asia by hostile, fanatical adversaries, but a new great power war would not raise that specter. **The biggest cost of selective engagement is the risk of being drawn into someone else’s faraway great power war**. **The global economy may be disrupted** by war, depending on who is involved, but even in the worst case, the costs would be manageable. Trade accounts for roughly 20 percent of the American economy, and sudden, forced autarky would be devastating for American prosperity. But no great power war could come close to forcing American autarky: essentially all goods have substitute sources of supply at varying marginal increases in cost. Furthermore, wars never isolate the fighting countries completely from external trade. Some dislocation is a real possibility, but these short-term costs would not justify the risks of fighting a great power war. **The risk of nuclear escalation is a reason to worry about great power war,** but it is a highly suspect reason to favor a military policy that puts U.S. forces between feuding powers. Nuclear weapons may not be used in a future great power war; the fear of retaliation should breed great caution on the part of the belligerents. But the larger point is that **the possibility of a faraway nuclear exchange is precisely the reason that America should keep its military forces out of other country’s disputes**. An Indo-Pakistani nuclear war would be a terrible thing, but it makes no sense to get in the middle. Distant wars would be costly, but not nearly as costly as the solution that selective engagers propose.

# Tix

**1NC—Debt Ceiling**

**Syria deal saved Obama’s capital- foreign policy issues trade off with Obama’s negotiating clout and push the debt ceiling out of priority position- undermines market confidence**

**Bohan 9-11** [Caren, Writer for Reuters, “Delay in Syria vote frees Obama to shift to hefty domestic agenda” http://www.reuters.com/article/2013/09/11/us-usa-obama-agenda-idUSBRE98A0Z920130911]

**Putting off a decision on military strikes on Syria allows President Barack Obama to shift his attention back to a weighty domestic agenda** for the fall that includes budget fights, immigration and selecting a new chairman of the Federal Reserve. **Obama and his aides** have **immersed themselves** for a week and a half **in an intensive effort to win support in Congress for U.S. military action in Syria** after a suspected chemical weapons attack last month killed more than 1,400 people. **But the effort**, which included meetings by Obama on Capitol Hill on Tuesday followed by his televised speech to Americans, **seemed headed for an embarrassing defeat, with large numbers of both Democrats and Republicans expressing opposition**. **The push for a vote on Syria - which has now been delayed - had threatened to crowd out the busy legislative agenda for the final three months of 2013 and drain Obama's political clout, making it harder for him to press his priorities**. But **analysts said a proposal floated by Russia**, which the Obama administration is now exploring, to place Syria's weapons under international control **may allow Obama to emerge from a difficult dilemma with minimal political damage**. "**He dodges a tough political situation this way**," said John Pitney, professor of politics at Claremont McKenna College in California. Pitney said **the delay in the Syria vote removes a big burden for Obama**, given that Americans, who overwhelmingly opposed military intervention in Syria, will now be able to shift their attention to other matters. He said **Obama could suffer some weakening of his leverage with Congress. The administration's "full court press" to try to persuade lawmakers to approve military force on Syria was heavily criticized and did not yield much success**. "**He probably has suffered some damage in Congress because there are probably many people** on (Capitol Hill) **who have increasing doubts about the basic competence of the administration and that's a disadvantage in any kind of negotiation**," Pitney said. BUDGET BATTLES Among **Obama's most immediate challenges are two looming budget fights**. By September 30, **Congress** and the president **must agree on legislation to keep federal agencies funded** or face a government shutdown. **Two weeks later, Congress must raise the limit on the country's ability to borrow or risk a possible debt default that could cause chaos in financial markets**. **On the first budget showdown, Obama may be at a strategic advantage because of divisions among opposition Republicans** about whether to use the spending bill to provoke a fight over Obama's signature health care law, known as Obamacare. House Republican leaders are trying to rally the party around a temporary spending measure that would keep the government funded until December 15 but are facing resistance within their own caucus from some conservatives who want to cut off funding for Obamacare, even if it means a government shutdown. **The debt limit fight could end up going down to the wire and unnerving financial markets**. **Republicans want to use that standoff to extract concessions from the Democratic president**, such as spending cuts and a delay in the health law. But **Obama has said he has no intention of negotiating over the borrowing limit.**

**Reducing Obama’s war powers causes a crippling loss of credibility- causes republicans to put up a more concerted fight on the debt ceiling which would wreck the markets**

**Seeking Alpha 9-10**

[“Syria Could Upend Debt Ceiling Fight” http://seekingalpha.com/article/1684082-syria-could-upend-debt-ceiling-fight]

Unless President Obama can totally change a reluctant public's perception of another Middle-Eastern conflict, it seems unlikely that he can get 218 votes in the House, though he can probably still squeak out 60 votes in the Senate. This defeat would be totally unprecedented as a President has never lost a military authorization vote in American history. **To forbid the Commander-in-Chief of ~~his~~ primary power renders him all but impotent**. At this point, a rebuff from the House is a 67%-75% probability. I reach this probability by looking within the whip count. I assume the 164 declared "no" votes will stay in the "no" column. To get to 218, Obama needs to win over 193 of the 244 undecided, a gargantuan task. Within the "no" column, there are 137 Republicans. Under a best case scenario, Boehner could corral 50 "yes" votes, which would require Obama to pick up 168 of the 200 Democrats, 84%. Many of these Democrats rode to power because of their opposition to Iraq, which makes it difficult for them to support military conflict. The only way to generate near unanimity among the undecided Democrats is if they choose to support the President (recognizing the political ramifications of a defeat) despite personal misgivings. The idea that all undecided Democrats can be convinced of this argument is relatively slim, especially as there are few votes to lose. In the best case scenario, the House could reach 223-225 votes, barely enough to get it through. Under the worst case, there are only 150 votes. Given the lopsided nature of the breakdown, the chance of House passage is about one in four. **While a failure in the House would put action against Syria in limbo, I have felt that the market has overstated the impact of a strike there**, which would be limited in nature. Rather, **investors should focus on the profound ripple through the power structure in Washington, which would greatly impact impending battles over** spending and **the debt ceiling**. Currently, **the government** loses spending authority on September 30 while it **hits the debt ceiling by the middle of October. Markets have generally felt that Washington will once again strike a last-minute deal and avert total catastrophe**. Failure in the Syrian vote could change this**. For the Republicans to beat Obama on a President's strength (foreign military action), they will likely be emboldened that they can beat him on domestic spending issues.**  **Until now, consensus has been that the two sides would compromise** to fund the government at sequester levels while **passing a $1 trillion stand**

**-alone debt ceiling increase**. However, the right wing of Boehner's caucus has been pushing for more, including another $1 trillion in spending cuts, defunding of Obamacare, and a one year delay of the individual mandate. Already, Conservative PACs have begun airing advertisements, urging a debt ceiling fight over Obamacare. **With the President rendered hapless** on Syria, **they will become even more vocal about their hardline resolution, setting us up for a showdown that will rival 2011's debt ceiling fight**. **I currently believe the two sides will** pass a short-term continuing resolution to keep the government open, and then the GOP will **wage a massive fight over the debt ceiling**. While Obama will be weakened, he will be unwilling to undermine his major achievement, his healthcare law. **In all likelihood, both sides will dig in their respective trenches, unwilling to strike a deal, essentially in a game of chicken**. If the House blocks Syrian action, it will take America as close to a default as it did in 2011. **Based on the market action then, we can expect massive volatility in the final days of the showdown with the Dow falling 500 points in one session in 2011.** **As markets panicked over the potential for a U.S. default, we saw a massive risk-off trade, moving from equities into Treasuries. I think there is a significant chance we see something similar this late September into October. The Syrian vote has major implications on the power of Obama and the far-right when it comes to their willingness to fight over the debt ceiling. If the Syrian resolution fails, the debt ceiling fight will be even worse, which will send equities lower by upwards of 10%. Investors must be prepared for this "black swan" event.**  Looking back to August 2011, stocks that performed the best were dividend paying, less-cyclical companies like Verizon (VZ), Wal-Mart (WMT), Coca-Cola (KO) and McDonald's (MCD) while high beta names like Netflix (NFLX) and Boeing (BA) were crushed. Investors also flocked into treasuries despite default risk while dumping lower quality bonds as spreads widened. The flight to safety helped treasuries despite U.S. government issues. I think we are likely to see a similar move this time. Assuming there is a Syrian "no" vote, I would begin to roll back my long exposure in the stock market and reallocate funds into treasuries as I believe yields could drop back towards 2.50%. Within the stock market, I think the less-cyclical names should outperform, making utilities and consumer staples more attractive. For more tactical traders, I would consider buying puts against the S&P 500 and look toward shorting higher-beta and defense stocks like Boeing and Lockheed Martin (LMT). I also think lower quality bonds would suffer as spreads widen, making funds like JNK vulnerable. Conversely, gold (GLD) should benefit from the fear trade. I would also like to address the potential that Congress does not vote down the Syrian resolution. First, **news has broken that Russia has proposed Syria turn over its chemical stockpile. If Syria were to agree** (Syria said it was willing to consider), **the U.S. would not have to strike, canceling the congressional vote.** The proposal can be found here. I strongly believe this is a delaying tactic rather than a serious effort. In 2005, Libya began to turn over chemical weapons; it has yet to complete the hand-off. Removing and destroying chemical weapons is an exceptionally challenging and dangerous task that would take years, not weeks, making this deal seem unrealistic, especially because a cease-fire would be required around all chemical facilities. The idea that a cease-fire could be maintained for months, essentially allowing Assad to stay in office, is hard to take seriously. I believe this is a delaying tactic, and Congress will have to vote within the next two weeks. The final possibility is that Democrats back their President and barely ram the Syria resolution through. I think the extreme risk of a full-blown debt stand-off to dissipate. However, **Boehner has promised a strong fight over the debt limit that the market has largely ignored. I do believe the fight would still be worse than the market anticipates but not outright disastrous.** As such, I would not initiate short positions, but I would trim some longs and move into less cyclical stocks as the risk would still be the debt ceiling fight leading to some drama not no drama. Remember, **in politics everything is connected. Syria is not a stand-alone issue. Its resolution will impact the power structure in Washington. A failed vote in Congress is likely to make the debt ceiling fight even worse, spooking markets, and threatening default on U.S. obligations** unless another last minute deal can be struck.

**Destroys the global economy.**

**Milstead 9-12** [David, Writer for the Globe and Mail, “The under-the-radar threat to U.S. stocks” Factiva]

**Conventional wisdom holds that the chief risk to the high-flying U.S. stock market is “tapering,”** the potential cutback of the Federal Reserve's bond-buying program. It's an understandable view, given how the Fed's monetary policy has propped up the country's economy for years by helping to keep long-term interest rates at ultra-low levels. But **it's** also **wrong**. **The greatest immediate hazard to stocks isn't the direction** the six governors of **the Federal Reserve will take. It's** what the 535 members of Congress will do in the coming weeks when faced with **two budgetary issues that ought to be routine – but will likely be anything but**. The first issue is approving a federal budget for the fiscal year that begins Oct. 1, or at least a resolution that will keep the government open in its absence. The second is authorizing a new, higher number for the U.S. government's borrowing before Washington hits its debt ceiling, once again, possibly by mid-October**. In the absence of such a vote, the U.S. must simply stop spending – and, in essence, default on its debt. If this sounds familiar, it's because we went through a similar showdown two years ago, in the summer of 2011. Yet** **it's easy to forget now how that fiscal gridlock roiled the markets. In the first day** of trading after Standard & Poor's downgraded U.S. debt in early August, **the S&P 500 fell nearly 7 per cent. The day after, the index was nearly 19 per cent below the level of early July.** The rhetoric suggests this fiscal showdown could inflict similar damage. Eighty House Republicans recently signed a letter urging their leadership to use any new government-funding bill to cut all necessary money for President Barack Obama's signature accomplishment, the Affordable Care Act, more popularly known as Obamacare. The Republican House leadership, it is said, does not support such a move. That's apparently because they prefer to make it part of the showdown over the debt ceiling. (The National Review, one of the U.S.'s leading conservative publications, reported Tuesday that Eric Cantor, the House Majority Leader, told Republicans they will be demanding a one-year delay of Obamacare in exchange for an increase in the debt ceiling.) Failing to raise the debt ceiling doesn't mean default, its opponents argue. The Treasury can just do a better job of “prioritizing,” paying the creditors while axing other expenses. **In the absence of a higher debt ceiling,** the U.S. could pay the interest on Treasury securities, and keep on footing the tab for Medicare and Medicaid, Social Security, national defence and a handful of aid programs, according to the Bipartisan Policy Centre. But, starting Oct. 15, **it won't be able to afford the salaries of other federal workers, or perform functions like road construction and air traffic control, or run the federal court system.**  Ted Yoho, the improbably named Republican representative from Florida, said this about a failure to raise the debt ceiling, according to a recording of one of his summertime town hall meetings leaked to the Huffington Post: “So they say that would rock the market, capital would leave, the stock market would crash … I think our credit rating would do better.” Better, I think, to take the U.S. Treasury's position that the **markets will view the U.S. picking and choosing which bills to pay as an admission it simply can't pay them all**. Deputy secretary Neil Wolin said during the last debt-ceiling showdown, in 2011, that **it “would merely be default by another name.”** That, however, is the view from the reality-based community, rather than the deeply irrational, anti-intellectual element that has hijacked the Republican Party and turned ordinary budgetary procedure into a partisan brawl. The liberal economic writer Jonathan Chait recently wrote **“the chaos and dysfunction** have set in so deeply that Washington now lurches from crisis to crisis, and once-dull, keep-the-lights-on rituals of government procedure are transformed into white-knuckle dramas that **threaten national or even global catastrophe.”** And yet stocks seem to be priced as if Democrats, Republicans and President Obama will come together to work something out. There is great faith that the United States will overcome its challenges and take the right path in the end. Investors could suffer double-digit losses in the coming weeks if that faith is misplaced.

**Nuclear war.**

Cesare **Merlini 11**, nonresident senior fellow at the Center on the United States and Europe and chairman of the Board of Trustees of the Italian Institute for International Affairs (IAI) in Rome. He served as IAI president from 1979 to 2001. Until 2009, he also occupied the position of executive vice chairman of the Council for the United States and Italy, which he co-founded in 1983. His areas of expertise include transatlantic relations, European integration and nuclear non-proliferation, with particular focus on nuclear science and technology. A Post-Secular World? Survival, 53:2, 117 – 130

Two neatly opposed scenarios for the future of the world order illustrate the range of possibilities, albeit at the risk of oversimplification. The first scenario entails **the premature crumbling of the post-Westphalian system**. One or more of the acute tensions apparent today **evolves into** an open and traditional conflict between **states**, perhaps even **involving** ***the use of nuclear weapons***. **The crisis might be triggered by a collapse of the global economic** and financial **system**, the vulnerability of which we have just experienced, and the prospect of **a second Great Depression, with consequences for peace and democracy similar to those of the first.** Whatever the trigger, the unlimited exercise of national sovereignty, exclusive self-interest and rejection of outside interference would self-interest and rejection of outside interference would likely be amplified, emptying, perhaps entirely, the half-full glass of multilateralism, including the UN and the European Union. Many of the more likely conflicts, such as between Israel and Iran or India and Pakistan, have potential religious dimensions. Short of war, tensions such as those related to immigration might become unbearable. Familiar issues of creed and identity could be exacerbated. One way or another, the secular rational approach would be sidestepped by a return to theocratic absolutes, competing or converging with secular absolutes such as unbridled nationalism.

# Solvency

## 1NC I-Law

**1NC – Customary International Law Advantage**

**No internal link --- they have no evidence that the Court would actually apply CIL to solve their impacts**

**No enforcement because Congress has not authorized CIL as a source of law**

**Bradley and Goldsmith ’97** (Curtis law prof at U of Colorado and Jack law prof at UVA, 110 Harv. L. Rev. 815, lexis)  
We have argued that, **in the absence of federal political branch authorization, CIL is not a source of federal law.** Certain doctrinal consequences follow from this argument. First, as a general matter, a case arising under CIL would not by that fact alone establish federal question jurisdiction. Second, **federal court interpretations of CIL would not be binding on the federal political branches or the states.** If a state chooses to incorporate CIL into state law, then the federal courts would be bound to apply the state interpretation of CIL on issues not otherwise governed by federal law. If a state did not, in fact, incorporate CIL into state law, the federal court would not be authorized to apply CIL as federal or state law. [345](http://web.lexis-nexis.com/universe/document?_m=40ad254a4521e0fbac9ca451597ece93&_docnum=1&wchp=dGLzVlz-zSkVA&_md5=8f35e3cc40a433cb7f6ac99cf56f95a0" \l "n345" \t "_self)

**CIL does not affect state practice**

**Goldsmith and Posner ‘98** (Jack and Eric, law profs at U of Chicago, “A Theory of Customary International Law” John M. Olin Law & Economics Working Paper No. 63, http://www.law.uchicago.edu/Lawecon/WkngPprs\_51-75/63.Goldsmith-Posner.pdf)

No one, moreover, agrees about how widespread and uniform state practice must be. In theory the practice is supposed to be “general” in the sense that all or almost all of the nations of the world engage in it.16 But it is practically impossible to determine whether 190 or so nations of the world engage in a particular practice. CIL is thus usually based on a highly selective survey of state practice that includes major powers and interested nations.17 Increasingly, courts and scholars sometimes **ignore the state practice requirement altogether**.18 For example, they refer to a CIL prohibition on torture at the same time that they acknowledge that many nations of the world torture their citizens.19 It is thus unclear when, and to what degree, the state practice requirement must be satisfied.

**CIL norms are an illusion – cooperation is a result of convergence of self-interest and coercion**

**Goldsmith and Posner ‘98** (Jack and Eric, law profs at U of Chicago, “A Theory of Customary International Law” John M. Olin Law & Economics Working Paper No. 63, http://www.law.uchicago.edu/Lawecon/WkngPprs\_51-75/63.Goldsmith-Posner.pdf)

One of the central claims of the standard account of CIL is that CIL norms govern all or almost all states, or at least all “civilized” states. This universality claim is rarely explained further. The idea is probably that certain public goods can be created only if all or most states participate by engaging in certain actions that they would not engage in if they acted independently. World peace, the preservation of the ozone layer, the maintenance of international fisheries, and coordination on standards for international communication and transportation are examples of such public goods. International scholars appear to believe that CIL norms evolve in order to enable states to create these n-state public goods. Our theory rejects this view. It holds that most instances of spontaneous international cooperation arise as the result of pairwise interactions. Apparently **cooperative** universal **behavioral regularities are illusory, the result of identical pairwise interactions, coincidence of interest, or coercion.** When n-state public goods are created, it is because states enter treaties and other agreements that solve n-state coordination games, **not because of** the evolution of universal and exogenous **CIL norms**. To understand the illusory quality of universal CIL norms, imagine that we observe that no state seizes civilian fishing vessels from enemies in times of war. The theory contemplates many possible explanations for this observation. First, states do not seize fishing boats because of coincidence of interest. The nations do not seize boats because their navies are more effectively used by attacking enemy warships or large merchant vessels. Second, many nations receive no benefit from seizing fishing boats, and those that otherwise would receive a benefit are deterred from doing so by powerful nations that have an interest in preventing seizures of their own boats. Third, two nations decline to seize fishing boats in a bilateral repeat prisoner’s dilemma, and all the other nations decline to do so because of coincidence of interest (or coercion), or -- it is possible -- all or most nations face each other in exclusive bilateral repeat prisoner’s dilemmas and refrain from seizing fishing vessels because of fear of retaliation from their (single) opponent. For example, all bodies of water containing fish under the conditions described above are bordered by exactly two states. Fourth, some or all nations face each other in bilateral coordination games which they solve, while any other nations engage in the same action because of coincidence of interest, coercion, or their participation in a bilateral prisoner’s dilemma. There are numerous other possible combinations of coincidence of interest, coercion, bilateral prisoner’s dilemmas, and bilateral coordination. In all these cases, some or many states refrain from seizing fishing vessels because they have better uses for their navy, or because they fear retaliation from the state whose fishing vessels they covet. In none of these cases is an n-state public good created through multilateral cooperation. Our essential claim is that all examples of robust CIL norms are explained in these ways. Although states often engage in virtually identical behavior -- protecting foreign ambassadors, for example57 -- they do so because they have no interest in deviating or because they fear retaliation from the state they victimize. The norm is universal in a **trivial sense only**, like the norm that states do not drill holes in the bottoms of their own ships**; it does not reflect true multilateral cooperation.**

**CIL norms fail – 4 reasons**

1. no consensus on what CIL is

2. Courts are structurally incapable of discovering what CIL is

3. nations have conflicting legal values

4. customary norms may be repugnant

**Wilkins ’05** (Brinton, attorney at Holm Wright Hyde & Hays and editor of BYU Law Review, 2005 B.Y.U.L. Rev. 1415, lexis)

The second and third concerns that applying CIL norms without congressional direction create are related: (1) haphazard use, and (2) selective use. Although Justice Breyer may be correct in arguing that international law "casts an empirical light on the consequences of different solutions to a common legal problem," [221](http://web.lexis-nexis.com/universe/document?_m=fd1e5e378164cede3aec13ebf7c576ff&_docnum=109&wchp=dGLbVzz-zSkVA&_md5=ad2a4032ecb85caa267826b5db42d73f" \l "n221" \t "_self) the difficulty  [\*1458]  comes in finding the right kind of light - a cave viewed with a single flashlight is a different experience from a cave viewed with full National Park Service illumination. According to Alford, "in the international legal arena, where the Court has little or no expertise, the Court is unduly susceptible to selective and incomplete presentations of the true state of international and foreign affairs." [222](http://web.lexis-nexis.com/universe/document?_m=fd1e5e378164cede3aec13ebf7c576ff&_docnum=109&wchp=dGLbVzz-zSkVA&_md5=ad2a4032ecb85caa267826b5db42d73f" \l "n222" \t "_self) Attempts to systematize the use of international norms have been made, but they ultimately fail for at least four reasons: (1) it is difficult, if not impossible to determine true international consensus on any point; (2) courts are structurally ill-equipped to research and make such determinations; (3) nations have noncommensurate legal values; and (4) putative international norms may be fundamentally repugnant to individual nations. [223](http://web.lexis-nexis.com/universe/document?_m=fd1e5e378164cede3aec13ebf7c576ff&_docnum=109&wchp=dGLbVzz-zSkVA&_md5=ad2a4032ecb85caa267826b5db42d73f" \l "n223" \t "_self)

# Treaties

### Warming

**Can’t solve climate – too fast, stays in the air, and cuts won’t happen.**

David G. **Victor et al 12,** Professor at the School of International Relations and Pacific Studies at the University of California, San Diego, May/Jun (with Charles F. Kennel and Veerabhadran Ramanathan, Foreign Affairs, Vol. 91 Issue 3)

FOR MORE than two decades, diplomats have struggled to slow global warming. They have negotiated two major treaties to achieve that goal, the 1992 UN Framework Convention on Climate Change and the 1997 Kyoto Protocol. And last year, at the UN Climate Change Conference in Durban, South Africa, they agreed to start talking about yet another treaty. A small group of countries, including Japan and the members of the European Union, now regulate their emissions in accord with the existing agreements. But most states, including the largest emitters of greenhouse gases, China and the United States, have failed to make much progress. As a result, total **emissions** of carbon dioxide, the leading long-term cause of global warming, **have risen by more than 50 percent** since the 1980s **and are poised to rise by more than 30 percent** in the next two to three decades.¶ **The ever-increasing quantity of emissions** could **render moot the aim** that has guided international climate diplomacy for nearly a decade: **preventing the global temp**erature **from rising by** more than **two degrees** Celsius above its preindustrial level. In fact, in the absence of significant international action, **the planet is now on track to warm by at least 2.5 degrees** during the current century -- and **maybe** even **more**. The known effects of this continued warming are deeply troubling: rising sea levels, a thinning Arctic icecap, extreme weather events, ocean acidification, loss of natural habitats, and many others. Perhaps even more fearsome, however, are the effects whose odds and consequences are unknown, such as the danger that melting permafrost in the Arctic could release still more gases, leading to a vicious cycle of still more warming.¶ All these risks are rising sharply because the traditional approach to international climate diplomacy has failed. For too long, climate science and policymaking have focused almost exclusively on emissions of carbon dioxide, most of which come from burning fossil fuels. **Weaning** the planet **off fossil fuels has proved difficult**, partly because expensive and rapid shifts to new energy systems could have negative effects on the competitiveness of modern economies. What is more, **carbon dioxide** inconveniently **remains** in the atmosphere **for centuries**, and so **even** keeping carbon dioxide **at current levels would require deep cuts** sustained over many decades -- **with economic consequences** that states are unlikely to be willing to bear unless they are confident that their competitors will do the same. No permanent solution to the climate problem is feasible without tackling carbon dioxide, but **the** economic and geophysical **realities of** carbon dioxide **emissions** almost **guarantee** political **gridlock.**

**International coal use overwhelms solvency**

Richard K. **Morse 12**, Director of Research on Coal and Carbon Markets at Stanford University's Program on Energy and Sustainable Development, May/Jun (Foreign Affairs, Vol. 91 Issue 3)

**COAL**, THE rock that fueled the industrial age, **is once again remaking** the **global energy** landscape. Over the past decade, **while most** of the world **stood transfixed by** the gyrations of the **oil** markets, the promise of **alt**ernative **energy, and** the boom in cheap **natural gas**, **coal left all other forms** of energy **in its dust**, contributing nearly as much total energy to the global economy as every other source combined.¶ **That explosive increase** in coal use **came** not **from** the developed world, where demand is plateauing, but from **the developing world**, **where the fuel remains the cheapest, most reliable source of electricity.** This year, the market in globally traded coal used to generate electricity is expected to reach 850 megatons--twice the total in 2000. If current trends continue, according to the International Energy Agency (IEA), China and India alone will drive 75 percent of the growth in coal demand before 2035, and coal will become the world's single largest source of energy before 2030.¶ But just as coal is remaking energy markets, it is also remaking the climate. Coal combustion is the world's largest source of carbon dioxide emissions, responsible for almost 13 billion tons per year. (By comparison, oil and natural gas account for 11 billion tons and 6 billion tons, respectively.) **With demand** for coal **ballooning in Asia**, between 2010 and 2035, **fully half the** total **increase in global** carbon dioxide **emissions** from fossil-fuel use **will come from** coal use in **the region**. The climate problem, in other words, is a coal problem.¶ For the last two decades, **economists** and diplomats **have tended to favor** one solution to that problem: **putting a price on** carbon dioxide **emissions,** which would allow markets to find the cheapest route to a cooler climate. But so far, **doing what may be economically optimal has proved politically infeasible** in most economies. Another strategy, **promoting renewable power**, is a necessary part of solving the climate problem but **will not be enough on its own**. **Developing economies are adding new coal plants on a scale that still dwarfs** the contribution of **renewable energy, and those plants will continue churning out more** and more emissions for decades to come**.¶ Coal,** despite the proliferation of clean-energy policies, **is not going away anytime soon.** As of 2010 (the most recent year with available data), 30 percent of the energy used in the world came from coal, second only to oil, at 34 percent. Most of this coal is used in the power sector, where it accounts for more than 40 percent of global generation capacity--a larger share than any other form of energy.¶

**Warming won’t cause extinction**

Scott **Barrett 7,** professor of natural resource economics – Columbia University

(Why Cooperate? The Incentive to Supply Global Public Goods, introduction)

First, **climate change does not threaten the survival of the human species**.5 If unchecked, it will cause other species to become extinction (though **biodiversity is being depleted now due to other reasons**). **It will alter critical ecosystems** (though **this is also happening now**, and **for reasons unrelated to climate change**). It will reduce land area as the seas rise, and in the process displace human populations. “**Catastrophic” climate change is** possible, but **not certain.** Moreover, and unlike an asteroid collision, **large changes** (**such as sea level rise** of, say, ten meters) **will likely take centuries to unfold, giving societies time to adjust.** “Abrupt” climate change is also possible, and will occur more rapidly, perhaps over a decade or two. However, **abrupt climate change** (such as a weakening in the North Atlantic circulation), though potentially very serious, **is unlikely to be ruinous.** Human-induced climate change is an experiment of planetary proportions, and we cannot be sur of its consequences. **Even in a worse case scenario**, however, global **climate change is not the equivalent of the** Earth being hit by **mega-asteroid.** Indeed, **if it were as damaging as this, and if we were sure that it would be this harmful**, then **our incentive to address this threat would be overwhelming.** The challenge would still be more difficult than asteroid defense, but we would have done much more about it by now.

**Temperatures have peaked – best models prove.**

**Zhang and Liu 12** [Wenjun, School of Life Sciences, Sun Yat-sen University, and Chunhua, International Academy of Ecology and Environmental Sciences, Hong Kong, “Some thoughts on global climate change: will it get warmer and warmer?” Environmental Skeptics and Critics, 2012, 1(1):1-7]

Many studies discussed climate change without considering the complexity of climate system. In our view, climate system is a complex and non-linear system. It possesses all properties that a complex system will have, such as non-linearity, chaos, catastrophe, multiple stable or unstable equilibrium states, etc. It is increasingly obvious that the equilibrium state of climate system is being broken by destructive human activities. There are several possibilities that global climate will proceed. We would not exactly predict what outcome will finally occur if destructive human activities continue. In the farther future, in addition to the scenario of continuous warming, **there is** also **possibility that the climate would proceed and reach a new stable or unstable equilibrium state, and the new equilibrium state would be realized in a smooth and continuous way, or realized in an abrupt way by jumping or plummeting**. Recent years’ and the coming tens of years’ unusual change in global climate would be a prelude for dramatic climate change in the far future. We found that **global annual mean temperature since 1880 has been rising in sinusoidal-type,** similar to a superposition of sine curve and exponential curve, in which a periodicity of about 60 years existed and **in the first** ~**40 years the temperature rose and in the second** ~**20 years it declined or approximately to be constant.** Accordingly, we predicted that **the global annual mean temperature had reached a peak around 2005, and would decline or be approximately constant until around 2030**. Some models, equations and parameters on climate change were also developed based on past hundreds of years’ historical records.

### HR

**International law will have no impact on domestic courts unless they use it to curtail rights.**

**Alford,** Associate Law Professor – Pepperdine, **’6** 69 Alb. L. Rev. 653

In short, a genuine embrace of constitutional comparativism requires a certain attitude about United States exceptionalism. To the extent that the United States has been at the forefront in expanding civil liberties, this movement questions the legitimacy of that approach. 144 With this methodology, what we are seeking are "common denominators of basic fairness governing relationships between the governors and the governed." 145 The hidden message is that aberrant practices that expand or curtail rights outside the international norm are suspect. Outlier behavior is subject to challenge simply because it departs from the opinions and practices of the world community. Of course, all of the celebrated examples of constitutional comparativism have been rights-enhancing. Unwittingly**, the Court thereby has laid a trap for itself.** By relying only on foreign authority to expand rights in contentious cases, in the future it will [\*679] be accused of hypocrisy and results-oriented jurisprudence if it does not rely on foreign authority to limit constitutional rights. As Justice Scalia noted in Roper, the Court should either profess its willingness to reconsider all these matters in light of the views of foreigners, or else it should cease putting forth foreigners' views as part of the reasoned basis of its decisions. To invoke alien law when it agrees with one's own thinking, and ignore it otherwise, is not reasoned decisionmaking, but sophistry. 146

**Turn: International human rights law trades off with domestic solvency which solves better.**

**Wieburd**, Law Professor – UNC Chapel Hill, **’99** 38 Colum. J. Transnat'l L. 45

A paradox seems to characterize the state of international human rights law in the world in mid-1999. On the one hand, one can point to significant improvements in human rights in a number of countries within the past twenty years or so. 1 But international human rights law **seems to play a relatively minor role** in these [\*47] developments; indeed, one can raise serious doubts as to the effectiveness of that body of law. 2 If these observations are accurate, they raise a dilemma for those interested in the international law of human rights. If the state of human rights improves despite the ineffectiveness of international human rights law, then it would appear that **efforts directed to strengthening that body of law are of doubtful utility.** Not only would such efforts seem not to contribute to the goal at which they aim, but **they would divert attention from whatever other forces in fact account for the improvements in human rights**.

# JR

## Soft Power

**Can’t change perception of US foreign policy.**

**Rabkin, ‘6** (Intl law prof at Cornell,7-17, Jeremy, “Not as Bad as You Think,” *Weekly Standard*, lexis]

The majority may have hoped to **signal** to Bush administration critics--particularly those in foreign countries--that the United States does respect international law. If one wants to take an optimistic view, one may hope the Court has actually offered some reassurance to these critics, without much inhibiting the substance of American war policy. But courts are **not well positioned** to conduct American foreign policy, much less balance diplomatic calculations against the stern imperatives of war.

**No perception – not key to heg.**

Jacques **deLisle**, University of Pennsylvania Law School, Winter,**’2**, 52 DePaul L. Rev. 473, p. lexis

It still might be supposed that courts roving about enforcing an expanding body of international legal norms might be especially dangerous in the American context because of the unusually high levels of independence and power that U.S. courts enjoy as a coequal and (on some accounts) unaccountable branch. The potential for courts to derange the nation's foreign policy might seem to be commensurately greater. But it is far from clear that this is so. True, **the structure of governmental power and the** extensive autonomy of **courts** in the United States **may still seem exotic and hard to imagine in much of the world**, especially in China and many of the other authoritarian regimes that have been the foci of human rights litigation. But **that does not mean that foreign governments** and their leaders fail to comprehend the U.S. structure. It does not mean that they **view court decisions as of a piece with U.S. foreign policy as articulated by the** executive branch or **Congress** because they see courts as agents of the political branches (as they arguably are in China and many ATCA target countries). **Nor does it mean that they view judicial opinions as on par with legislative** or presidential **pronouncements** because they view courts as the equal of the political branches in foreign policy (as a highly simplistic version of American constitutional law and politics might suggest).

**Turn: Using foreign sources hurts US diplomatic leverage.**

**Wilkinson, ‘4** (The Honorable J. Harvie Wilkinson III is currently a Circuit Judge on the United States Court of Appeals for the Fourth Circuit, Spring, 27 Harv. J.L. & Pub. Pol'y 423)

So judges must not wade, sua sponte, into international law's deep blue sea. Rather, we ought to ask: How does American law make foreign or international standards relevant? Why should we ask this threshold question? Because it is important that the United States speak with one, not multiple, voices in foreign affairs. The Constitution is explicit on this: Article I, Section 10 says that "no State shall enter into any Treaty [or] Alliance" with a foreign power. 9 The Constitution leaves the conduct of foreign and military affairs largely to the political branches -- not the courts. The diplomatic credibility of the United States **would plummet if the actions and pronouncements of the executive and legislative branches in foreign and military matters were later repudiated and contradicted by judicial decree.**

**Court action won’t help international law or US soft power.**

**Rabkin, ‘3** (Government Professor – Cornell, June-July, American Spectator

If our own courts can defy norms of customary international practice (when U.S. law requires them to do so), why should American judges worry about whether their rulings encourage other countries to reinterpret customary law? The short answer is that trying to get other countries to respect American ideas about international law is a challenge for American diplomacy-and always has been**. It's not a challenge made easier by letting American courts**, egged on by American law professors, proclaim their own new ideas about what international law should be. Meanwhile, the first priority of American policy must be security for the American people. That means we should not want even our own courts to hobble necessary military action. Yes, we need legal constraints on executive actions in our own country. But we can only retain our own country if we can secure it against threats from abroad, **and that kind of security can't be delivered by lawyers and judges**. Federal courts are getting it. Good for them. Good for us.

**No impact to soft power—**

**A. Soft power is over – the US is too broke to buy influence and can’t convince people to do what it wants**

**Rachman 11** (Gideon Rachman, Financial Times chief foreign affairs commentator, *Zero-Sum Future*, 2011, pp 187-188)

**It is not just American military power that is threatened by the erosion in the country's economic position. America's ability to achieve its international aims in other ways is also undermined. The country simply has less money to throw around** and has to worry more about the views of its foreign creditors. Discussing America's ability to help failing states, a senior State Department official in 2009 told me bluntly, "We can't just do a Marshall Plan; we have to enlist others to help.” **The prestige of the American system and of the ideas that America represents has also suffered a serious setback**. Michael **Mandelbaum**, a scholar who chronicled the spread of American-inspired liberal economic and political ideas in his book The Ideas That Conquered the World, **reflected** in 2002 **that "an economic slump on the scale of the Great Depression would call into question the value of free markets**, as it did in the 1930s, **and so shake the foundations of the international system**:'27 **The world seems to have avoided a new Great Depression** in the aftermath of the crash of 2008, **but the deepest global recession since the 1930s, originating, as it did, in a financial crisis in the United States, damaged the prestige both of free-market economics and of America itself. And that is a development that does indeed threaten to "shake the foundations of the international system**."

**B. Long timeframe—plan can’t repair fast enough**

**Sullivan ‘4** (Paul, Professor of Economics at the National Defense University and a Research Fellow at the Independent Institute, 5-13-2004 “Why America is not Safer” <http://www.apomie.com/notsafer.htm>)

Going on TV to sell the U.S. agenda will not get very far, I am sorry to say. **Decades of rebuilding trust and confidence** will be required before U.S. credibility returns and the America can turn the corner in relations with Arabic and Islamic peoples. A long-term campaign to improve our relations with 1.4 billion people, one-fifth of humanity, is not a choice; **it is a requirement**.

**C**